



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

OCTOBER 12, 2004

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller, Weston

ABSENT: Engles

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, Associate Planner (AP) Tolentino, and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:02 p.m. and asked AP Tolentino to lead the pledge of allegiance to the flag.

#### DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the public hearing.

With no one present from the audience wishing to address matters not appearing on the agenda, the public comment opportunity was closed.

#### COMMISSIONERS INTEREST ITEMS

Chair Weston said he wished to have record of his concerns regarding the Safeway at Tennant and Monterey. Chair Weston commented that when decisions regarding the landscaping were made, he felt the Commissioners and others had tried to make the needs of the City well known. "A large amount of time was spent identifying the signage and landscaping. I am very disappointed with the result. I've talked with the Planning Staff; they have been working to remedy the deficiency of the installed landscaping. Somehow, the developer and landscaper architect just didn't translate what was said. When I consider the amount of time and effort the Commissioners spent...I am very disappointed," Chair Weston indicated. He continued by saying that a lot of effort goes into making the City's intersections look nice, as he lamented that the Architectural Review Board, Staff, and Commissioners worked to achieve the best for the area, and the developer didn't appear to have made the effort to meet the expectations.

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Commissioner Benich agreed, saying he had also spoken with the ~~developer~~ City Planning Staff after he had viewed the landscaper's results. "I was particularly concerned that there are other - many other - issues unresolved," Commissioner Benich said, as he cited Commissioner Mueller's comments on the need for interior (directional) signage.

Chair Weston said there are many deficiencies which have not been corrected, 'but Staff is working diligently'.

### MINUTES

**SEPTEMBER 28, 2004** **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE SEPTEMBER 28, 2004 MINUTES, WITH THE FOLLOWING MODIFICATIONS:**

Page 3, paragraph 3, and within Resolution 04-88: ~~environments~~ *emissions*

Page 3, paragraph 5: ~~future issues dealing with the matter.~~ *additional antennas added to the pole and it is important to have a base line test on record.*

Page 3, paragraph 8: Commissioner Acevedo said, "as to whether to ~~make it out of place but knew the area eventually will change its zoning and make the current usage non-conforming, since the area will eventually need to change.~~"

**THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES; ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLER.**

### NEW BUSINESS:

#### **1) UP-04-10: JARVIS-METRO PCS**

A request to approve a conditional use permit (CUP) to allow the installation of a cylinder antenna concealed within a new 50 foot flag pole and install three equipment cabinets. The site is located at 650 Jarvis Drive in the Planned Unit Development District

PM Rowe presented the staff report, advising the Commissioners that the Cellular Provider is proposing to place a 50 ft flagpole containing the antennas nearby the Extended Stay America facility. He noted that findings are required as part of the CUP and described how each of the findings is recommended for being met. PM Rowe explained a concern had surfaced regarding an existing flagpole nearby the proposed location at on-ramp to Highway 101. This second installation (the new pole) will be approximately 30 feet to the South of the existing one. It is proposed that this flagpole/antenna display either the California flag or the United States flag and the other flagpole/antenna the other. PM Rowe indicated staff inquired about co-locating this installation with the existing one, or even on top of the Extended Stay America, but had been told that the building height prohibited such placement. It was also verified that contact with the Chevrolet car dealership indicated there was not interest in having the antenna there to replace a flagpole on that site, as it would reduce space for auto displays. Consequently, PM Rowe reported, even though concerns about the proximity of the two antennas, the applicant asked to go ahead with the request for the CUP in view of all the work completed. PM Rowe presented the revised Resolution 04-90, adding the *standards for field testing* as Condition f5 on page 2. PM Rowe called attention that the proposed site location is within a 30-foot landscape easement, and consequently Condition 8 had been added, requiring locating of the antenna outside of the 30-foot easement. "This would cause the new installation to be parallel to the existing antenna," PM Rowe said.

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Commissioner Benich said he noticed on the draft Resolution (and was unsure on others previously addressed) that the actual height limit was not listed. "Is this something that needs to be addressed?" he asked. PM Rowe explained the Municipal Code restriction of a 50-foot height limitation for such installations.

Commissioner Acevedo asked if, when this is approved, the drawings specifically identifying the dimensions of pole would be submitted? PM Rowe explained, "Yes, that is the case."

Commissioner Mueller raised the possibility of co-locating this antenna installation on the existing pole as he reminded that the shopping center has recently changed ownership. "Has anyone considered co-locating this antenna?"

Commissioner Lyle said he thought that to be a good idea. "If there is a willing owner, it probably would just involve taking the existing antenna up 6 – 8 feet."

PM Rowe informed that the new owner had been asked about a possible co-location on the existing pole. The response: they would like to hear a proposal if one was sent to them.

Chair Weston opened the public hearing.

Suzanne Smith, 3645 Gatewood Ct., Santa Cruz, representing the applicant, told the Commissioners they had contacted the owner of the shopping center when the project began six months ago. "We always want to co-locate, if it is feasible," Ms. Smith said, then went on to explain the location exploration process involved, listing each of the businesses and locations contacted, and the lack of results with each. In total, eight different locations were explored, she said.

Ms. Smith further explained that, because this is new service area for the company and nothing has been built, the engineers have completed testing and the results were that the installations couldn't be placed as co-locators, as that would be below a level of service provision. "In other words, we could not go above the maximum 50 feet, and we had to have a certain height level for the service. We just found out today from the Planning Department about the 30-foot landscaping easement issue. *Ms. Smith indicated that co-locating higher on the existing pole would increase its total height to 60 to 70 feet, likely about 67 or 68.*

Chair Weston asked if there were any reasons why the applicant would not have the Planning Department investigate co-location and /or the increased height?

Mrs. Smith responded, "Yes and no," then addressed the time and money already spent. "We want to go ahead and have the service in place by the first of the year."

Commissioner Mueller commented that when the pole is moved out of the landscape area, the antennae will be 3 - 4 feet lower than when the testing was completed, and it may not be as simple to relocate as it might appear.

Ms. Smith said she thinks the location may be 'O.K.' then spoke to the technical issues

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of the location proposed.

Commissioner Mueller said it may be necessary to go to the north and ~~east~~ west of the currently proposed location.

The Commissioners and the applicant's representative discussed the following issues:

- the inconsistency of new pole placement
- co-location on an existing pole
- possible ridgeline interference
- consideration of a variation to the 50-foot limit, perhaps to 60 foot
- distance requirements of the poles (between the two)
- cost effectiveness of changing the project
- engineering for the antennas
- potential difficulties of an agreement for co-location
- how much room does one antennae need one from another
- questions regarding the spotlights on pole (Ms. Smith indicated this could be eliminated)
- flag etiquette
- possibility of utilizing the existing pole at Mervyn's (Ms. Smith reminded discussion had not be positive previously)
- the relationship of the four other projects dependent on this one
- correction of the physical address of the proposed installation

With no others present indicating a desire to speak to the matter, the public hearing was closed.

Commissioner Escobar called attention to page two of the proposed Resolution , saying he would like to make observation that if co-location is allowed, could it be at the City's discretion? "If it is a matter of a Conditional Use Permit, and it is technically feasible, which it appears to be, then in the future the City should be more assertive," Commissioner Escobar said. PM Rowe indicated that the language here (in this Resolution) should be made a standard condition in the future.

Considerable discussion was engaged by the Commissioners on the topics of:

- the co-location issue [whether it is: a) possible; b) feasible]
- one installation with co-location versus two antennas
- consideration of raising/waiving the height limitation for antennas

Commissioners differed in opinions as to the best resolution of the matter, and Chair Weston polled the seated Commissioners with the following result:

### **Support:**

Commissioner Acevedo (who said this disguise – the flagpole - appears to be sufficient; he noted that the applicant had tried to locate in other sections of the City, but had received no response – 'but they have done diligently'; and said he is opposed to thinking of a 60 - 70 foot height for an antennae.

Commissioner Lyle (although he indicated objection to increased height and saying he would rather see two antennae since this would be 'more attractive')

Chair Weston (would like this to be a flagpole for the United States flag, with a spotlight and a condition that the flag be replaced every six months)

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**Opposed:**

Commissioner Benich (who indicated displeasure to any attempt to raise the height limit 50 feet - and was also in opposition to having two antennae so close together).

Commissioner Escobar who said he is in favor of exploring co-location and would like to have the matter brought back following an effort to renew the co-locate issue.

Commissioner Mueller said he liked co-location for the two installations, but had concerns about an increased height. He further stated he would support two antennae, as he believed taking action to be prudent. "I would also have considered having Staff work with the applicant further," he said.

Other discussion included: flag replacement, flag etiquette, lighting of the flag(s).

**COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-90, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE INSTALLATION OF A 50-FOOT TALL FLAGPOLE, ANTENNA, AND THREE EQUIPMENT CABINETS AT 605 JARVIS DRIVE IN THE PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, WITH THE FOLLOWING MODIFICATION:**

**The installation shall be monitored to ensure the flying flags meet display Standards**

**COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED BY THE FOLLOWING VOTE: AYES; ACEVEDO, LYLE, MUELLER (WHO AKSED THE RECORD TO SHOW THAT HE VOTED 'YES' ONLY TO ENSURE MOVING THE MATTER FORWARD , WESTON; NOES: BENICH, ESCOBAR; ABSTAIN: NONE; ABSENT: ENGLES.**

Commissioner Acevedo asked when the policy regarding telecommunication installations could be expected? PM Rowe responded it would be before the first of the year.

**2) DAA-03-08:**

**NATIVE**

**DANCER-QUAIL  
MEADOWS**

A request for approval to amend the development agreement for a six-unit single-family project to designate all six lots as "For Sale" custom lots. The project site is located at the southwest corner of Santa Teresa Blvd and Native Dancer Dr. in a RE (40,000) zoning district.

AP Tolentino presented the staff report, advising the Commissioners that there will not be an adjustment to the points awarded under the Measure P competition, but there is need to change the development agreement to designate all six lots as "For Sale" custom lots. AP Tolentino also called attention to the recommended date changes in Exhibit A to coincide with the RDCS Quarterly Report:

**IV: BUILDING PERMIT SUBMITTAL**

*June 30, 2006*

*~~August 31, 2004~~*

**V. BUILDING PERMITS**

*September 30, 2006*

*~~October 30, 2004~~*

Chair Weston opened the public hearing.

Applicant Scott Schilling, 16060 Caputo Dr., #160, told the Commissioners he was in support of the recommended changes and proposed two additional changes:

Exhibit B:

- (ii) .....landscaping shall be completed and ***a punch list generated*** by the City prior to final occupancy of the first unit, ***and accepted by the City prior to final occupancy of the second unit.***
- (iv) .....ensure compatibility with the ~~project developer-built~~ ***existing*** homes in the subdivision.

Responding to questions from the Commissioners, SE Creer explained how a 'punch list' works.

Commissioner Acevedo asked whether the traffic pattern has been changed, citing an apparent different location for the cul de sac. Mr. Schilling explained about the secondary through road, and cleared up how the cul de sac 'intrudes onto Rocke Garcia's land', a matter which had been heard by the Commissioners at an earlier time.

With no others present in the audience to address the matter, the public hearing was closed.

The Commissioners spent time in discussion regarding:

- a common concern that custom lots get a two-year extension as a general policy, with a need for more precise detail: if the roads are not in, or other pertinent items require finishing, an identified number of improvements should be completed as originally planned or within few months of the two years [PM Rowe explained the reason for policy is because a 'custom lot' purchaser needs time to find an Architect, then get financing, all of which can sometimes take at least two years]
- punch list completion time lines

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-91, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN WHICH RECOMMENDS APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-03-09: NATIVE DANCER-QUAIL MEADOWS, AND INCLUSIVE OF THE DATES CHANGED IN EXHIBIT A AND THE DEVELOPER REQUESTED CHANGES IN EXHIBIT B, WITH THE FOLLOWING MODIFICATIONS:**

**Exhibit B:**

(ii) .....landscaping shall be ***substantially*** completed and ~~accepted~~ ***a punch list generated*** by the City prior to final occupancy of the first unit. ***The punch list items shall be completed and accepted by the City within 60 days of final occupancy of the first unit or prior to final occupancy of the second unit, whichever comes first.***

**THE MOTION WAS SECONDED BY COMMISSIONER BENICH AND CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES WAS ABSENT.**

3) ZA-04-19:  
CITY OF M.H.-  
TEXT  
AMENDMENT  
TO THE

Amendment to Title 17, Chapter 17.20 of the Morgan Hill Municipal Code, the Subdivision Ordinance, repealing Section 17.20.110, requiring City Council review of tentative subdivision maps.

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## **SUBDIVISION**

## **ORDINANCE**

PM Rowe gave the staff report, noting this action has been brought to the Commissioners at the request of the City Council. PM Rowe explained the alternatives to having maps called up by/to the Council and when reviews must take place, e.g., precise plan, etc. PM Rowe informed that one of the major concerns in requesting attention to this matter is the cost of staff time. "Furthermore," PM Rowe said, such matters are usually pro forma on the Council's consent calendar."

Commissioner Lyle clarified that passing this measure will not limit the ability to have items addressed by the Council.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-92, WITH COMMISSIONER ACEVEDO SECONDING, RECOMMENDING APPROVAL OF AN AMENDMENT TO TITLE 17, CHAPTER 17.20 OF THE MORGAN HILL MUNICIPAL CODE, THE SUBDIVISION ORDINANCE, REPEALING SECTION 17.20.110, REQUIRING CITY COUNCIL REVIEW OF TENTATIVE SUBDIVISION MAPS, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES; ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLS.**

## **ANNOUNCEMENTS:**

PM Rowe, in providing information about upcoming events, told Commissioners that as a tentative agenda topic, the Measure C Review needs to be scheduled. There are 24 applications (total) which will be presented at the next meeting for scheduling.

As to actions by the City Council, PM Rowe reported that at the October 6, 2004 meeting, the Development Agreement for the DeWitt Marquez project was approved as recommended by the Commissioners. Furthermore, at the same meeting, the Zoning Amendment for Modified Set Backs was accepted and approved as the Commissioners had recommended.

## **COMMISSIONER'S CONCERNS**

Chair Weston inquired about sidewalk standards, with PM Rowe giving the explanation of a proposed action schedule for the Commission.

Commissioner Acevedo made known a concern regarding the recently installed 'chatter bars' which the Public Works Department installed at particular intersections. "These seem to be unsafe," Commissioner Acevedo declared. "They appear to have been placed at several locations where they can't be seen on approach. If the City is going to continue the system, could those installations be painted or reflectorized?" Commissioner Acevedo asked. Chair Weston agreed, saying he considers them (the chatter bars) to be dangerous.

Commissioner Benich questioned SE Creer regarding the approach into Safeway on Vineyard, saying that as a driver comes into the alleyway, there is a solid double yellow line that raises questions about turning. SE Creer explained a legal turn could be made over the double yellow line. Continuing, SE Creer said there are a lot of safety issues at the location, as he told of planned correction measures, including a new type of slurry, reduction of lanes through restriping, and installation of a center turn lane.

## **ADJOURNMENT:**

Ascertaining there was no further business to come to the attention of the

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Commissioners, Chair Weston adjourned the meeting at 8:32 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**

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